

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

EDWARD GARZA, JR.

Plaintiff,

v.

WELLPATH MEDICAL, *et al.*

Defendants.

CIVIL ACTION NO. 21-1179

ORDER

AND NOW, this 20th day of March 2023, upon consideration of Lieutenant Brill and former Correctional Officer Adams' Motion to Dismiss [Doc. No. 57], Wellpath Medical and John Nicholson, PA's Motion to Dismiss [Doc. No. 63], Garza's Motion to Oppose Defendants' Motion to Dismiss [Doc. No. 67], Wellpath Medical and John Nicholson, PA's Motion to Strike [Doc. No. 77], Bah Rahmatullah, LPN's Motion to Dismiss [Doc. No. 82], Garza's Motion to Oppose Rahmatullah's Motion to Dismiss [Doc. No. 86], and the responses and replies thereto, is hereby **ORDERED** as follows:

1. Brill and Adams' Motion to Dismiss [Doc. No. 57] is **DENIED**.
2. Wellpath Medical and Nicholson's Motion to Dismiss [Doc. No. 63] is **GRANTED**.
3. Rahmatullah's Motion to Dismiss [Doc. No. 82] is **GRANTED**.
4. Garza's request in the Fifth Amended Complaint for a declaration that his Constitutional rights were violated is **DISMISSED**.
5. Garza's Motion to Oppose Defendants' Motion to Dismiss the Fifth Amended Complaint [Doc. No. 67] and Motion to Oppose Defendant Bah Rahmatullah's Motion to Dismiss [Doc. No. 86], which the Court construes as Garza's responses in opposition to the Motions to Dismiss, are **DISMISSED as moot**.

6. Wellpath Medical and Nicholson's Motion to Strike [Doc. No. 77] is **DISMISSED as moot.**

7. Brill and Adams shall file an answer to Plaintiff's Fifth Amended Complaint within **14 days** of the date of this Order.

It is so **ORDERED.**

BY THE COURT:

/s/ Cynthia M. Rufe

CYNTHIA M. RUFÉ, J.